**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.669 OF 2007**

**DATED: 12-07-2007**

**BETWEEN**

K. Ravi Sesha Raman,
S/o. K.V.S. Ramana Murthy,
R/o. Buttaipeta, Krishna
District and others.

...PETITIONERS

**AND**

The Commissioner,
Prohibition & Excise,
Government of A.P.,
Hyderabad and others.

...RESPONDENTS

**ORDER:**

Petitioners seek a Writ of Mandamus to direct the Prohibition and Excise, Superintendent, Krishna District, at Machilipatnam, to refund the amount of Rs.5,000/- paid by each of them vide treasury challans towards the application fee for grant of lease of right to less Indian Liquor, Foreign Liquor and Beer in retail.

2. Petitioners submit that pursuant to the notification issued by the Prohibition and Excise, Superintendent, Krishna District at Machilipatnam dated 08.04.2002 inviting applications for grant of lease of right to sell Indian Liquor, Foreign Liquor and Beer in respect of shops notified therein, each of them deposited a sum of Rs.5,000/- by way of treasury challans towards non-refundable application fee, but they could not submit any application pursuant to the said notification.

3. There is no dispute that the petitioners have not at all submitted their applications pursuant to the said notification except each of them paying Rs.5,000/- towards non-refundable application fee.

4. Counter has been filed stating that the last date to receive the application by fourth respondent was 15.04.2002 but as there was huge rush of applicants and as there was a big galata, the petitioners could not submit their applications along with challans and that as many as 729 applications were received. It is stated that the amounts deposited by the petitioners cannot be refunded under condition
No. II (2) of the said notification.

5. The circular instructions of the Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad in Cr.No.1701/2002/CPE/G.2 dated 08.04.2002 goes to show that all the Prohibition and Excise Superintendents were directed to publish a copy of the Gazette inviting applications and that an application fee of Rs.5,000/- should be accompanied with each application. The condition No. II (2) goes to show that every application shall be accompanied by an amount equal to 1/3$^{rd}$ of the annual licence fee for the proposed I.L.24 shop in the shape of Demand Draft obtained in favour of the licensing authority and treasury challan of Rs.5,000/- towards non-refundable application fee. It is stated that once the application is submitted the application fee is not refundable.

6. I am of the opinion that as the representations filed by the petitioners before the Prohibition and Excise, Superintendent – fourth respondent through their lawyers were not at all considered and disposed, it is just and proper to direct the fourth the respondent to pass appropriate orders for the refund of the amount of Rs.5,000/- deposited by each petitioner towards application fee.

The writ petition is accordingly disposed of directing the fourth respondent to pass appropriate orders on the representations of the petitioners, with regard to the refund of treasury challans each for an amount of Rs.5,000/- submitted by the petitioners, within four weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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V. ESWARAIAH, J

July 12, 2007
DSK